

**COMMONWEALTH OF VIRGINIA  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**2003  
Community Economic Development Fund  
Prospectus**



**Department of Housing and  
Community Development**

**The Jackson Center  
501 N. 2<sup>nd</sup> Street  
Richmond, VA 23219**

**VIRGINIA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**  
**2003 Community Economic Development Fund**  
**Prospectus**

**Table of Contents**

<b><u>Item</u></b>	<b><u>Page</u></b>
♦ Introduction	1
♦ CED Fund Categories and Thresholds	2
♦ CED Fund General Policies	6
♦ CED Fund Prospectus Response Review	9
♦ CED Fund Prospectus Response Format	10
♦ <b>Appendices</b>	
Appendix A	VCDBG Eligible Localities
Appendix B	Community Economic Improvement Locality Matrix
Appendix C	Industry Information Package

## Introduction

The Community Economic Development Fund (CED) is designed to support economic development activities, particularly those creating employment opportunities for low- and moderate-income persons, in Virginia Community Development Block Grant-eligible localities. Assistance is limited to projects involving employment creation by private, for-profit basic industries. Projects involving commercial development or other types of job creation may be eligible for Competitive Grant funding.

Activities eligible for CED funding include off-site improvements related to industrial location or expansion, including water and sewer system improvements, streets, and drainage. On-site improvements are also eligible, pending underwriting, but the funding required for these improvements will be provided to localities in loan form. In 2003, \$4,000,000 is available under the CED Fund. Up to \$700,000 will be available per project. Proposals will be received on an open basis by the Department of Housing and Community Development from January 1, 2003 through September 30, 2003. **Projects assisting businesses which cannot commit to providing a post-probationary wage of at least 1.5 times the minimum wage to 90% of all employees hired as a result of the VCDBG assistance may be eligible for VCDBG funding limited to 50 percent of project costs up to \$350,000.**

Prior to preparation of a formal CED proposal, all applicants must complete a response to this Prospectus and submit it to DHCD for review. This review process will enable DHCD to complete a prompt test of thresholds and evaluation of VCDBG funding targets for all potential CED projects. Following this review, DHCD can provide specific written instructions to potential applicants for obtaining CED funding. These instructions may include an invitation to submit a CED Proposal. **FUNDING WILL NOT BE OBLIGATED FOR A PROJECT UNTIL DHCD APPROVES A CED PROPOSAL.**

**The Community Economic Development Fund Prospectus and all other documentation related to proposal development under the Virginia Community Development Block Grant Program must be used in conjunction with the 2003 VCDBG Program Design.**

Questions regarding Community Economic Development Fund project development should be directed to:

<b>Denise Ambrose</b> Program Manager <a href="mailto:dambrose@dhcd.state.va.us">dambrose@dhcd.state.va.us</a> (804) 371-7029	<b>Bruce Warrington</b> Policy Analyst <a href="mailto:bwarrington@dhcd.state.va.us">bwarrington@dhcd.state.va.us</a> (804) 371-7056
--	---

Virginia Department of Housing and Community Development  
Project Management Office  
The Jackson Center  
501 N. 2<sup>nd</sup> Street  
Richmond, VA 23219  
FAX (804) 371-7093

## CED Fund Categories and Thresholds

The nature of the financial assistance available under the CED Fund varies depending on the economic strength of the applicant localities. VCDBG-eligible localities, excluding Towns, are placed in one of three categories: Distressed, Transitional, and Competitive. Towns which are fully contained within a county are in the same category as the surrounding county. Towns which are divided among two counties are in the same category as the county with the least economic strength. Localities were placed in a category based on the relative position of local statistics to statewide statistics for each of three economic factors. The factor titles, sources of factor data, and delineations within each factor are as follows:

### ***Persons in Poverty***

(County Estimates for People of All Ages in Poverty for Virginia: 1997; U.S. Census Bureau)

- Distressed: 150% or greater than statewide figure (or 17.40% or higher)
- Transitional: Greater than or equal to statewide figure of 11.60%
- Competitive: Less than statewide figure of 11.60%

### ***Median Adjusted Gross Income per Married Return***

(Married Returns, 1999; Virginia Department of Taxation)

- Distressed: 70% or less of statewide figure (or \$37,622 or less)
- Transitional: Less than or equal to statewide figure of \$53,745
- Competitive: Greater than statewide figure of \$53,745

### ***Annualized Average Unemployment Rates***

(Annualized Average Unemployment Rates for Virginia Localities, 2000; Virginia Employment Commission)

- Distressed: 150% or greater than statewide figure (or 3.3% or higher)
- Transitional: Greater than or equal to statewide figure of 2.2%
- Competitive: Less than statewide figure of 2.2%

Localities received two points for each factor in which they met Distressed levels, one point for each factor at Transitional levels, and no points for each factor at Competitive levels. A table of locality statistics and scores is included as **APPENDIX C**. Localities with 5 or more points are Distressed. Localities with 2 to 4 points are Transitional. Localities with 1 point or less are Competitive.

## CED Fund Categories and Thresholds

### **DISTRESSED**

Distressed localities are those with scores of 5 or more points from the evaluation of economic factors.

#### ***Localities***

Accomack County	Lunenburg County	Tazewell County
Brunswick County	Mecklenburg County	Washington County
Buchanan County	Northampton County	Westmoreland County
Buckingham County	Nottoway County	Wise County
Carroll County	Patrick County	Wythe County
Charlotte County	Prince Edward County	City of Covington
Dickenson County	Richmond County	City of Emporia
Floyd County	Russell County	City of Franklin
Grayson County	Scott County	City of Galax
Halifax County	Smyth County	City of Norton
Henry County	Sussex County	City of Williamsburg
Lee County		

#### ***Thresholds***

The thresholds for VCDBG assistance in Distressed localities are as follows:

- The subject business must create at least 10 full-time positions
- The subject business must make a private investment of at least \$100,000
- The subject business provide a post-probationary wage of at least 1.5 times the minimum wage for 90% of all employees and offer an employment benefits package including medical insurance to all employees

#### ***Assistance for Local Economic Diversification***

If the assisted business is involved in the value-added manufacturing or re-manufacturing and reuse of indigenous raw materials, the provision of needed local services, and/or the diversification of the local economy, the following conditions apply:

- VCDBG assistance for off-site improvements is eligible for up to 100% of total project costs (up to the VCDBG project limit).
- No local government financial participation is required in the project.
- VCDBG loans for on-site improvements are available through a relaxed underwriting process and flexible terms.
- VCDBG assistance is available at up to \$25,000 per job to be created.

#### ***Assistance for Other Businesses***

If the assisted business will not meet the above criteria for diversifying the local economy, the following conditions apply:

- VCDBG assistance for off-site improvements is eligible for no more than 80% of the total project costs (up to the VCDBG project limit).
- Local financial participation must total at least 20 percent of the VCDBG eligible costs.
- VCDBG loans for on-site improvements are available through a relaxed underwriting process.
- VCDBG assistance is available at up to \$10,000 per job to be created.

## CED Fund Categories and Thresholds

### TRANSITIONAL

Transitional localities are those with scores of 2 to 4 points from the evaluation of economic factors.

#### *Localities*

Alleghany County	Giles County	Pittsylvania County
Amelia County	Greensville County	Pulaski County
Amherst County	Highland County	Rockbridge County
Appomattox County	Isle of Wight County	Southampton County
Bath County	King and Queen County	Surry County
Bland County	Lancaster County	City of Bedford
Campbell County	Louisa County	City of Buena Vista
Caroline County	Madison County	City of Harrisonburg
Charles City County	Middlesex County	City of Lexington
Craig County	Montgomery County	City of Martinsville
Culpeper County	Nelson County	City of Radford
Cumberland County	Northumberland County	City of Staunton
Dinwiddie County	Orange County	City of Waynesboro
Essex County	Page County	City of Winchester
Franklin County		

#### *Thresholds*

The thresholds for VCDBG assistance in Transitional localities are as follows:

- The subject business must create at least 20 full-time positions
- The subject business must make a private investment of at least \$300,000
- The subject business must provide a post-probationary wage of at least 1.5 times the minimum wage for 90% of all employees and offer an employment benefits package including medical insurance to all employees

#### *Assistance Parameters*

For all businesses, the following conditions apply:

- VCDBG assistance for off-site improvements is eligible for no more than 80% of the total project costs (up to the VCDBG project limit).
- Local financial participation must total at least 20 percent of the VCDBG eligible costs.
- VCDBG assistance is available at up to \$10,000 per job to be created.
- If the assisted business meets the criteria cited under the **Distressed** section regarding diversification of the local economy, VCDBG loans for on-site improvements are available through a relaxed underwriting process.
- If the assisted business does not meet these criteria, VCDBG loans for on-site improvements are available through a market underwriting process.

## CED Fund Categories and Thresholds

### COMPETITIVE

Competitive localities are those with scores of 1 or fewer points from the evaluation of economic factors.

#### *Localities*

Albemarle County	Greene County	Rappahannock County
Augusta County	Hanover County	Roanoke County
Bedford County	James City County	Rockingham County
Botetourt County	King George County	Shenandoah County
Clarke County	King William County	Spotsylvania County
Fauquier County	Loudoun County	Stafford County
Fluvanna County	Mathews County	Warren County
Frederick County	New Kent County	York County
Gloucester County	Powhatan County	City of Poquoson
Goochland County	Prince George County	City of Salem

#### *Thresholds*

The thresholds for VCDBG assistance in Competitive localities are as follows:

- The subject business must create at least 50 full-time positions
- The subject business must make a private investment of at least \$3,000,000
- The subject business must provide a post-probationary wage of at least 1.5 times the minimum wage for 90% of all employees and offer an employment benefits package including medical insurance to all employees

#### *Assistance Parameters*

For all businesses, the following conditions apply:

- VCDBG assistance for off-site improvements is eligible for no more than 50% of the total project costs (up to the VCDBG project limit).
- Local financial participation must total at least 50 percent of the VCDBG eligible costs.
- Non-local public funding investment must be no more \$10,000 per job to be created. Loans to local governments from other public sources with specific repayment requirements are regarded as local funds.
- No VCDBG assistance is available for on-site improvements.

## CED Fund General Policies

### **TYPES OF ASSISTANCE**

CED assistance may be targeted for both off-site and on-site improvements. Off-site improvements may include water lines, sewer lines, roads, and drainage. On-site assistance may be eligible in some projects, but these projects are subject to underwriting.

### **VCDBG INVESTMENT**

VCDBG funding will only pay for improvements of a scope and scale consistent with identified needs. Improvements which will benefit future development are not eligible for VCDBG funding. **DHCD will scrutinize the need for and scale of all activities included in requests for CED funding.**

### **APPROPRIATE DETERMINATION**

On-site improvements are subject to underwriting because VCDBG funds, which are public funds, must not be used to replace any form of financing that either could be or already has been secured at terms and conditions that make the project feasible. The underwriting is to determine if the use of VCDBG funds in a project is appropriate for the anticipated level of public benefits and includes a financial analysis of the business. An Appropriate Determination package is available from DHCD which outlines the type of information required from the business to complete underwriting. Applicants must prepare a response to this package and submit it to DHCD approximately one month before completion of a CED proposal.

### **ON-SITE ASSISTANCE**

VCDBG funding is available for certain on-site improvements in support of a business creating jobs and completing private investment in an eligible locality. A locality seeking VCDBG funding for on-site assistance must coordinate completion of an Appropriate Determination package. To complete this package, a locality must obtain detailed information on the background, financial position, and local development plans of the business to be assisted. This package is submitted by DHCD to independent underwriters for review.

VCDBG on-site assistance is offered to localities in the form of a loan. The loan terms are established by the independent underwriters. A locality receiving VCDBG funding for on-site improvements must repay DHCD in accordance with the established terms. There are no circumstances under which DHCD will waive this repayment. The locality is responsible, in turn, to make the VCDBG assistance available as a loan to the assisted business and to make arrangements with the assisted business to make regular payments.

VCDBG funding cannot be used to develop infrastructure in a privately-owned industrial park.



## **CED Fund General Policies**

### **INDUSTRY COMMITMENT**

All CED proposals must include an industry commitment letter. Such a letter serves as documentation of the industrial commitment which provides the basis for project eligibility.

A commitment letter must include the following:

- The need for the improvements which the locality will implement using VCDBG funding;
- The commitment of the business to locating or expanding in the locality;
- The type and amount of the private investments;
- The number of jobs (LMI and total) of jobs to be created or retained by category;
- The timing of the investments and hiring;
- The plans for job training, if applicable; and,
- The plans for use of a single point of contact for screening applicants, if applicable, such as the Virginia Employment Commission;
- The comprehension and acceptance that a formal agreement must be signed to secure the commitments.
- For Community Economic Development Fund projects, these industry commitments must provide details on the accompanying benefits package.

Where appropriate, the industry should attach documentation to its letter supporting the figures detailed in the letter.

### **LOW- AND MODERATE-INCOME BENEFIT**

VCDBG eligibility in economic development projects is established by creating job opportunities for low- and moderate-income persons. There are two options for ensuring LMI benefit results from the job creation process. The first option is to employ LMI persons in at least 51% of the available positions. Under this option, the locality or assisted business will retain documentation of the income status of employees.

The second option is to establish procedures to ensure that LMI persons will receive first consideration for employment. Under this option, the job qualifications must be limited to possession of a high school diploma or its equivalent. No special training should be required. A third party single point of contact for application screening, such as the Virginia Employment Commission, is typically utilized. This contact will maintain all LMI documentation. The employer must hire only those persons screened by this third party.

Job creation must occur within three years of the completion of VCDBG-funded improvements. The job creation requirement will be incorporated into a formal agreement. A business which fails to meet the job requirements will be subject to a non-performance penalty as outlined in this agreement.

## **CED Fund General Policies**

### **PIRACY**

VCDBG assistance will not assist a Virginia firm to relocate from one locality to another locality unless the firm provides substantial evidence that it cannot continue to do business in the existing location due to inadequate facilities, that the firm is significantly expanding beyond the capabilities of the existing location, that the move to another location results in a net gain of permanent jobs for Virginia, and that the impacted local governments are aware of the need for relocation. VCDBG assistance will not assist a non-Virginia firm in relocating to Virginia if the relocation is likely to result in a significant loss of employment in the labor market from which the relocation occurs.

### **INELIGIBLE ACTIVITIES**

The following activities are not eligible for VCDBG assistance:

- General promotion of the community as a whole;
- Assistance to professional sports teams;
- Assistance to privately-owned recreational facilities that serve a predominantly higher income clientele where the benefit to such clientele clearly outweighs employment or other benefits to low- and moderate-income persons;
- Acquisition of land for which no specific purpose has yet been identified;
- Additional assistance to a for-profit business while the business is the subject of unresolved findings of non-compliance from previous CDBG assistance;
- Assistance to facilitate the creation of gambling operations; and,
- Projects in which the cost to provide goods and services to LMI persons exceeds \$1,000 per LMI person.

### **LOAN GUARANTEES**

Localities interested in loan guarantees in support of economic development should contact DHCD for additional information.

## **CED Fund Prospectus Response Review**

### **DHCD RESPONSE LETTER**

Within 15 working days of the receipt of a Prospectus response, DHCD will prepare a response letter outlining the following:

- Whether the proposed project meets thresholds and is eligible for CED funding
- Issues or questions which must be addressed by the business or locality
- The next steps which must be taken to obtain CED funding

The DHCD response letter generally serves as an invitation to submit a CED proposal, but does not obligate funding. CED funding will be obligated upon DHCD's receipt of a formal CED proposal which adequately presents the proposed project and includes responses to all issues identified through review of the Prospectus response.

### **FOLLOW-UP AND TIMING**

Localities with projects involving VCDBG-funded on-site improvements will receive an Appropriate Determination package with their DHCD response letter which must be completed and returned to DHCD within 45 calendar days of the date of the DHCD letter. Responses received will be forwarded for underwriting. DHCD anticipates underwriting can be completed within 45 days. Following underwriting, DHCD will prepare a second response letter which transmits the CED Request for Proposals and the financing terms determined through the underwriting. Localities will have 60 calendar days from the date of the DHCD letter to complete and return a CED proposal.

Localities without VCDBG-funded on-site improvements will only receive a response letter. These localities will have 60 calendar days from the date of the DHCD letter to complete and return a CED proposal.

Failure to submit an Appropriate Determination package within 45 days or a proposal within 60 days may result in the voiding of the terms of the DHCD response letter. Under these circumstances, localities must submit a new Prospectus response and start the review process anew.

The CED Request for Proposals is available to localities under separate cover. All CED proposals must be received by October 31, 2003.

### **INDUSTRY COMMITMENTS**

CED proposals prepared in accordance with the CED Request for Proposals must include Industry Commitment letters as outlined on page 7. Additional guidance for such letters will be available in the CED RFP. Prior to receipt of the CED RFP, localities may act to educate businesses on the requirements for VCDBG assistance. Localities may choose to provide these businesses with copies of the Industry Information Package located in **APPENDIX C**.

**2003**  
**Community Economic Development Fund**  
Prospectus Response Format

## CED Fund Prospectus Response Format

Localities must prepare responses, in letter form and on locality letterhead, inclusive of all of the following elements:

### **Locality and Contact**

Provide the name of the locality in which the future project activities will occur. The locality must be eligible for VCDBG funding. Provide the name and title of a local contact and this individual's phone number, fax number, and electronic mail address.

### **CED Fund Economic Category**

Indicate the locality's economic category (Distressed, Transitional, or Competitive).

### **Assisted Business**

Provide the name of the business to be assisted, describe its overall business, and provide details on the specific business activities which will occur at the facility in the above-mentioned locality in conjunction with publicly-funded improvements. Identify if the local activities of the assisted business will engage in value-added manufacturing or re-manufacturing and reuse of indigenous raw materials, provide of needed local services, and/or the diversify of the local economy.

### **Project Need**

Provide details on the specific physical needs of the assisted business. What specific off-site improvements are **REQUIRED** for this business to engage in normal operations? What must be the size or scale of these improvements for this business to engage in normal operations? What on-site improvements are required and which of these requires investment of public funds? **The need for water storage tanks, water / sewer line sizing, length, and location, and road improvements will receive particular attention from DHCD.**

### **Project Activities**

Provide details on the potential project activities. Identify the off-site improvements which will be constructed to serve the above-mentioned business. Specify cost elements, quantities, and costs (i.e. 1 pump station - \$25,000; 2,000 LF of 2-inch water line - \$20,000; and so on). Identify, also, the source of information for these quantities and costs. Identify the on-site improvements which will be constructed, providing similar details (cost elements, quantities, and costs) for those which will be completed using VCDBG funds. For those on-site improvements which will be completed using the resources of the assisted business, summary details (general activity and approximate total cost) will suffice. Localities may use the template included in Appendix B in addressing this element.

### **VCDBG Investment**

Identify those activities and amounts from the preceding item which are targeted for VCDBG funding. Include estimates for engineering and any amounts for Administration (up to 10% of the VCDBG amount or \$56,000 whichever is less). Describe why VCDBG funds are required for this project in lieu of private, local government, or other funding. DHCD reserves the right to adjust the amount of VCDBG funding targeted for a project based on interpretation of the information in the **Project Need** item.

<b>CED Fund Prospectus Response Format</b>
--

**Private Commitment*****Jobs***

Indicate the total number of new jobs the assisted business will create in the identified locality and the number and percentage of these jobs which will be targeted for low- and moderate-income persons. Provide information on the types of jobs and the number of jobs by each type. Indicate the proposed wage ranges for each type of job. Identify the types of employment benefits to be provided.

***Private Investment***

Indicate the total amount of new private investment the assisted business will make in the local facilities. Specify the targets for this investment, whether property acquisition, plant construction, or equipment.

**Local Investment**

Identify the activities and amounts targeted for the investment of local resources, if applicable. Identify the source for these resources (General fund, Loan proceeds, and so on) and current level of commitment (obligated, in progress, prospective, and so on).

**Timetable**

Develop a listing of tasks inclusive of making formal application for CED funding and their anticipated dates of completion. Include the targets of the assisted business for completion of facility development and for initiation of hiring for the new jobs.

## APPENDIX C – Industry Information Package

### ECONOMIC DEVELOPMENT USING VCDBG FUNDING

VCDBG funding is awarded to localities for the purpose of either creating or retaining permanent, full time jobs where 51% of the jobs involve the employment of low- and moderate-income persons. Jobs must be "held by" or "made available to" low- and moderate-income persons. While other economic development objectives may be achieved in carrying out the project, these are secondary in importance to the primary purpose of benefiting low- and moderate- income persons. In addition to LMI benefit, economic development projects MUST achieve all performance targets including total jobs, construction, and investment.

#### JOBS

New full-time (or full-time equivalent) employment is the only benefit recognized in a VCDBG economic development project.

Prior to obligation of VCDBG funds, each business must provide the following information:

1. A summary of total current employment by job classification at the site to be assisted.
2. A summary of total current employment by job classification at all other Virginia-based locations at which the industry is engaged in similar economic activities.
3. A projection of employment to be created at the assisted site by number, job classification and time frame of job creation or retention.
4. A statement concerning plans for transfer/relocation of personnel from other sites to the assisted site to include numbers of employees by job type.

Each industry is required to make good faith efforts to achieve and document the employment of the number and proportion of low- and moderate-income (LMI) persons committed in the proposal. Additionally, federal statute requires that, as a minimum, at least 51% of the jobs created must "held by" or "made available to" low- and moderate-income persons. These standards are explained in the Agreement for Industrial Development Projects on page 16.

Low- and moderate-income persons are defined as persons who are members of a household whose income is below 80% of the median income of the county, or the non-metropolitan area of Virginia, in which the project is located. These figures are published annually by the U.S. Department of Housing and Urban Development

DHCD has developed the form Record of Application for Employment (VCDBG Projects) to aid industries in tracking job creation (see page 12).

## APPENDIX C – Industry Information Package

### RECORD OF APPLICATION FOR EMPLOYMENT (VCDBG Projects)

The (location / expansion) of (Industry) is being assisted with Community Development Block Grant funds from the Virginia Department of Housing and Community Development. These are federal funds intended to benefit persons with low- and moderate-income. Therefore, the Company must ask you to provide information that will establish the Company's record in meeting the National Objective of benefiting low- and moderate-income persons.

PLEASE COMPLETE THE FOLLOWING INFORMATION TO THE BEST OF YOUR ABILITY. YOU MAY BE ASKED TO PROVIDE VERIFICATION OF YOUR ANSWERS EITHER BY EMPLOYEES OF THE COMPANY, THE LOCAL GOVERNMENT OR STATE OR FEDERAL AGENCIES. IF YOU HAVE ANY QUESTIONS, PLEASE SEE THE COMPANY'S PERSONNEL OFFICER.

I. Please check ALL categories that apply to you.

☐ Male ☐ Female

☐ Single Head-of-Household (with 1 or more children 18 years of age or under)

☐ Elderly (62 years or older)

☐ Handicapped

☐ White-Not Hispanic

☐ Black-Not Hispanic

☐ Hispanic

☐ American Indian/Eskimo/Aleut

☐ Asian/Pacific Islander

II. Including yourself, how many members of your family / other individuals live in the same house/apartment with you? Circle a number: 1 2 3 4 5 6 7 8

III. Including yourself and everyone who lives with you, what is the total household income? Please circle the appropriate line below. **(Insert Section 8 Income guidelines)**

Below xxxxx

Between xxxxx and xxxxx.

Between xxxxx and xxxxx

Between xxxxx and xxxxxx

Between xxxxx and xxxxx

Between xxxxx and xxxxxx

Between xxxxx and xxxxx

Between xxxxx and xxxxxx

IV. I certify that I have answered this survey to the best of my ability. I understand that the information I have given is subject to verification.

\_\_\_\_\_  
Position Applied For (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Date of Application

=====

For Office Use Only: LMI ☐ No ☐ Yes    Hired ☐ No ☐ Yes



## APPENDIX C – Industry Information Package

### INVESTMENT

All economic development projects require private investment in the construction and/or installation of production equipment in a facility. Investment in inventory, supplies, and personnel, or in the form of refinancing or working capital is *generally* not considered as an eligible investment cost in fulfilling leveraging commitment. Prior to execution of a grant contract a legally binding agreement must be executed with each private enterprise to be assisted, firmly committing their investment.

All private expenditures **MUST** be documented by one of two methods:

1. An Independent Public Accountant's signed statement attesting that all agreed upon private expenditures have been made on the project for eligible activities, OR
2. Submission to the locality of copies of source documents in the form of invoices and cancelled checks documenting that full investment was made on the project for approved activities.

Only investment made after the date identified in the Community Improvement Grant proposal package of the fiscal year the project was funded and *until two years after start of construction* may be counted towards fulfilling leverage commitment, unless DHCD's specific deadline has been stipulated in the Special Conditions of the Community Improvement Grant contract.

Final closeout of the project will not be made until documentation of private investment has been reviewed and approved by DHCD. If the facility to be constructed is not completed, any CDBG funds expended in the project **MUST** be returned to the Department of Housing and Community Development. Provisions in the Industry Agreement **MUST** be in place to require the industry to pay such expenses.

### SANCTIONS

If a facility constructed or assisted by the project fails to substantially achieve the performance set forth in the Grant Agreement and the Industry Agreement, sanctions will be imposed, including, but not limited to, reduction of grant award, repayment of portions of grant expenditures by the assisted industry, repayment of portions of grant expenditures by the locality, or forfeiture of program income by the locality. In the event of substantial nonperformance, the assisted industry must be required to provide detailed documentation proving that a good faith effort has been made to achieve specified benefits.

Substitutions of businesses will not be permitted without prior written approval of DHCD. A detailed justification must be provided to this Department with documentation that the proposed substitute business has provided evidence on the number of jobs, LMI jobs and leveraged funds at least equal to the business originally detailed in the grant proposal and contract agreement. **DHCD WILL REQUIRE THE RETURN OF FUNDS IN THOSE PROJECTS WHERE JOBS AND PRIVATE INVESTMENT DO NOT MATERIALIZE.**

## APPENDIX C – Industry Information Package

### REPAYMENT AND SECURITY OF VCDBG FUNDS

All VCDBG funds utilized for improvements made on the site of property either owned or leased to a private enterprise **MUST** be repaid to the locality by terms specified in the locality's proposal or subsequent agreement with DHCD.

All funds to be repaid must be fully secured by a mortgage and promissory note or other enforceable instrument which provides security on the improvements.

For new facilities, the locality must hold *first position* on a mortgage or other security instrument *unless* (i) other financing is provided by an Industrial Development Bond (IDB) through the locality; (ii) a secondary position is accepted in the project proposal; or (iii) written approval of secondary position is provided by DHCD.

In the case of IDB financing, grant funds shall be secured by a second position on the mortgage.

Off-site improvements need not be repaid by the industry unless utility payments are subsidized to the firm. Off-site improvements must be available to other users and may not be restricted to the assisted industry, **UNLESS** the industry repays the cost of the improvement.

CDBG funded off-site improvements may not be initiated unless one of the following conditions is met:

1. Construction or investment of private improvements has been initiated or assured; or
2. A bond legally guaranteeing the total amount of CDBG expenditures has been provided by the industry; or
3. The industry is providing funds matching CDBG expenditures in a non- recourse escrow account from which the locality may be reimbursed in case of the failure of the industry to fulfill its investment responsibilities.

## APPENDIX C – Industry Information Package

### INDUSTRY AGREEMENTS

Prior to the execution of a grant contract with DHCD, grantees MUST execute an agreement with all private firms which will receive grant assistance or which have made benefit or leveraging commitments included in the grant proposal. Such agreements MUST stipulate completion of all committed actions, as well as grant related requirements. **This agreement must be reviewed and approved by DHCD prior to its execution.** The industry agreement must be reviewed by the locality's legal counsel to insure that it is enforceable.

Industry Agreements should be consistent with the locality's Employment Assessment and must contain provisions relating to the following issues:

1. Construction and equipment installation;
2. Investment; and
3. Employment.
  - a. Total jobs and LMI jobs to be created and/or retained by job category (at least 51% of all jobs created and/or retained will benefit low- and moderate-income persons.);
  - b. Total number of persons employed by job category at time industry agreement is executed;
  - c. Description of the jobs anticipated to be created;
  - d. Timetable projecting job creation;
  - e. LMI employment by race, ethnicity, gender, age greater than 62 years, and handicap status;
4. Training requirements;
5. Time of completion of the above-mentioned actions;
6. Recordkeeping and reporting requirements to document low- and moderate income benefits by race, ethnicity, gender, age greater than 62 years, and handicap status:
  - a. At Administrative Closeout;
  - b. At six month intervals until completion; and
  - c. At completion;
7. Documentation of investment;
8. Security of grant-assisted improvements;
9. Repayment/amortization schedule;
10. Federal compliance requirements:
  - a. Labor Standards,
  - b. Equal Opportunity, and
  - c. Procurement (if applicable);
11. Monitoring rights and responsibilities of local and state officials;
12. Documentation of employee characteristics;
13. Payments in lieu of taxes (if lease-purchase);
14. Insurance requirements;
15. Continuation of occupancy;
16. Sanctions/liquidated damages for nonperformance.

## APPENDIX C – Industry Information Package

### AGREEMENT FOR INDUSTRIAL DEVELOPMENT PROJECTS

This AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 199\_\_, between the (Grantee), a (legal term for Town/City/County) existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "(Grantee)" and (Industry's Name), a corporation existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "(Industry)".

#### WITNESSETH:

THAT for and in consideration of the mutual covenants and agreements herein contained, the said parties do agree as follows:

1. The parties recognize that this AGREEMENT is contingent upon the continued existence of a CDBG grant offer of \$(Amount of Grant Offer) to (Grantee).
2. (Industry) certifies and attaches as a part of this agreement a summary setting forth the following information:
  - a. Total current employment by job type at the site to be assisted.
  - b. Total current employment by job type at other Virginia based locations at which the industry is engaged in similar economic activities.
  - c. A projection of employment to be created at the assisted site by number, job type, and time frame of job creation.
  - d. A statement concerning plans for transfer/relocation of personnel from other sites to the assisted site including numbers of employees by job type.
- \*3. (Industry) will locate upon the premises a (type of facility) facility creating or retaining approximately (Number) jobs. Fifty-one percent (51%) of all created jobs will be LMI jobs as defined herein. Employment created will not duplicate existing employment and will be achieved within three years of occupancy or start of operations.
- \*4. (Industry) will take affirmative steps to employ low- and moderate-income persons (defined as persons whose annual **family income** prior to employment is lower than 80% of the median income for the area). Both the family size and income of the entire family will be considered. The HUD Section 8 Income Limits by family size will be used.

To fulfill the LMI job requirements, jobs must either be: actually taken by (or retained by) LMI persons, OR jobs must be available to LMI persons.

In order to be considered "available to," the following conditions must be in place:

- special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, OR this business nevertheless agrees to hire unqualified persons and provide them training; AND

## APPENDIX C – Industry Information Package

- the local government or this assisted business take actions that would ensure that LMI persons receive first consideration for filling such jobs.

First consideration means that this business will give objective consideration to the employment of LMI persons. This consideration will normally involve an interview. To demonstrate that first consideration was given, this business will:

- a. obtain and keep on file for verification the necessary information about the person to determine LMI Status (i.e., documentation on family income and size); or
- b. consider referrals.

Referrals may be made from the locality or the local Virginia Employment Commission that agrees to refer individuals who they can determine to be an LMI person based on HUD's Section 8 Income Limits and considering both family and income size. AGENCIES MAKING REFERRALS MUST MAINTAIN THE DOCUMENTATION THEY USED FOR VERIFICATION. Additionally, any person referred from the JOB TRAINING PARTNERSHIP ACT (JTPA) programs will be accepted as LMI because of the known income restrictions of that program, except for the Dislocated Workers Program.

Training. Any training programs specified in the locality's grant proposal must be initiated prior to or concurrent with start-up of production. Documentation of training efforts and information concerning individuals enrolled in training programs MUST be kept by the business and the locality.

- \*5. (Industry) will maintain documentation on both the persons who apply and those who are employed by the following characteristics: a) gender, b) head of household, c) elderly, d) handicapped, and e) racial/ ethnic status (White-Not Hispanic, Black-Not Hispanic, Hispanic, American Indian/Eskimo/Aleut, Asian/Pacific Islander).
- \*6. (Industry) will submit documentation of the number and characteristics of all of those employed to the (Grantee) at least every six (6) months from the start of operations for a period of three (3) years or until the (Grantee) has received written approval from the Virginia Department of Housing & Community Development to terminate submission of documentation.
- \*7. (Industry) will invest not less than (Amount) for machinery, equipment and other physical improvements at THE SITE within three years from the start of construction. This investment will be verified by an audit provided by (Industry) and prepared by an Independent Public Accountant.
- \*8. (Industry) agrees to provide to (Grantee), and to officials of the Virginia Department of Housing and Community Development and the U. S. Department of Housing and Urban Development, reasonable access to its facilities to substantiate the employment and investment committed by this agreement and to provide access to pertinent records documenting jobs held by or made available to low- and moderate-income persons.

## APPENDIX C – Industry Information Package

### SANCTIONS

- \*9. Upon signing of this AGREEMENT, (Industry) agrees that upon failure to honor its commitment at any time to locate on THE SITE or to close on the aforementioned Lease-Purchase Agreement, once local or grant funds have been expended on project improvements agreed to herein, the Industry will repay all local or grant funds already expended in full to the locality and to the Virginia Department of Housing and Community Development.
- \*10. Should the industry fail to substantially achieve the performance regarding jobs and investment outlined herein after location at THE SITE, the industry is required to provide detailed documentation proving that a good faith effort has been made to achieve specified benefits. (Grantee) and the Virginia Department of Housing & Community Development reserve the right in such case to require repayment of all or a portion of the grant funds. Notwithstanding a good faith effort on the part of the industry, failure to employ at least 51% low- and moderate-income persons or make jobs *available to* at least 51% low- and moderate-income persons will result in the repayment of the entire amount of grant assistance provided by the locality and the Virginia Department of Housing & Community Development.

WITNESS the following signature and seals.

(\*Signatures must be notarized.)

\_\_\_\_\_  
(Grantee)

\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Industry)

\_\_\_\_\_  
(Seal)

Commonwealth of Virginia, County/City of \_\_\_\_\_. This day personally appeared before me (Grantee Representative) and (Industry Representative) and acknowledged their signatures to the foregoing agreement. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. My Commission Expires: \_\_\_\_\_

(Seal)

\_\_\_\_\_  
(Notary Public)

\* Those items identified by an asterisk (\*), Item #'s 3 through 10, are **required** to be included in all job creation Community Improvement Grant Projects.

### PLEASE NOTE:

**THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT MUST REVIEW AND APPROVE AGREEMENTS BETWEEN THE GRANTEE AND THE INDUSTRY, THEREFORE, SUCH DOCUMENTS SHOULD BE SUBMITTED TO THE DEPARTMENT WHILE THEY ARE STILL IN FINAL DRAFT FORM.**

**INDUSTRY AGREEMENTS BETWEEN THE LOCALITY AND THE BUSINESS MUST BE EXECUTED BEFORE DHCD WILL EXECUTE OUR GRANT AGREEMENT WITH THE LOCALITY**

## APPENDIX C – Industry Information Package

### COMPLIANCE

All federal and state laws, regulations and rules normally affecting publicly funded construction projects shall be in effect for economic development project activities funded in whole or in part by DHCD.

Compliance areas which may apply:

#### Labor Standards

Construction of facilities and installation of equipment related to grant assisted improvements are subject to the Davis-Bacon Act, the Copeland Anti-Kickback Act and the Contract Workhours and Safety Standards Act.

#### Equal Opportunity

All VCDBG related project activities MUST be carried out in such a manner so as to assure that no person shall be denied benefits on the grounds of race, color, religion, national origin, age, sex or handicap. In order to document nondiscrimination compliance, all firms receiving grant assistance must provide jobs in a nondiscriminatory manner and report to the locality information about the number, ethnicity and sex of all persons hired as a result of the project. Equal Opportunity requirements are contained in Chapter Four of the CIG Management Manual .

#### Property Acquisition

Any purchase made in whole or in part with public funds must be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. A public hearing must be held prior to the acquisition of property by a Town for the development of business and industry (Code of Virginia 15.1-18).

### PROJECT MONITORING

DHCD representatives will make on-site visits to the assisted business to review job creation, progress, and reporting requirements. These visits may occur as follows:

- Prior to execution of grant contract between the locality and DHCD;
- During construction (if applicable);
- Prior to conducting a final compliance review of the locality; and
- Prior to granting close-out status.

If the industry facilities are not in place before the grant agreement is executed, the Community Representative will still meet with a representative of the industry at a mutually convenient location. During these visits, DHCD representatives will review progress, based on the construction schedule and timetable in the industry agreement, and job creation and documentation. The documentation reviewed will be that outlined in the industry agreement.

## APPENDIX C – Industry Information Package

Although, DHCD representatives will conduct on-site visits to the industry, this does not relieve the locality from conducting its own monitoring and on-site visits to ascertain the above information on a more frequent basis. The industry MUST be reporting progress and jobs to the locality on a regular basis as agreed upon in the industry agreement. The locality MUST require the business to report the kinds of data which the Community Representative needs to determine compliance. In this way, some of the documentation can be reviewed by the Community Representative at the grantee's offices.

### CLOSEOUT

Investment for facilities and equipment MUST be completed and documentation submitted within six months of completion of Community Improvement Grant assisted activities. Enterprises are allowed two years (if CDBG funds are used as a loan) from the date of Administrative Closeout to meet employment commitments. Economic development projects may be Administratively Closed upon the completion of all grant assisted activities in accordance with normal Community Improvement Grant requirements and the approval (if applicable) of a Plan for Program Income.

Conditional Closeout of economic development projects is usually conditioned upon completion of all activities, documentation of all required investment, and provision of all jobs, including LMI jobs. Usually investment and provision of jobs have not been completed at Administrative Closeout; therefore, economic development projects must be actively tracked until all performance requirements have been fulfilled. **Jobs will be tracked for two (2) years from completion of the construction activities.**

In order for DHCD to track completion of investment and job creation, localities are required to submit reports every six months following Administrative Closeout until performance is achieved. Conditional Closeout will not be issued until achievement of the National Objective is assured, that is, until all LMI jobs are in place.

If at the end of the tracking period following Administrative Closeout, performance has not been met, a Final Report MUST be submitted documenting final investment and job creation attained. If job creation and investment commitments have not been met, and the tracking period has expired since Administrative Closeout, the locality will not be eligible for further Community Improvement Grant contracts until this Final Report and any necessary documentation is received by DHCD. Should the Final Report indicate substantial non-achievement of performance, information identifying the reasons for non-achievement of the committed results MUST accompany the Report.

Grantees are responsible for the performance of private firms which they are assisting with grant funds. If the National Objective is not met, persuasive documented evidence that good faith efforts were exhausted by the locality and/or third parties must be submitted to DHCD. If the project or the tracking period expires without meeting the National Objective, or satisfactory evidence of a good faith effort is not submitted, appropriate sanctions will be imposed. These could include payback of grant funds, ineligibility for consideration of future grants, or withholding of draw downs on a new grant until compliance with the National Objective is met.